

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

GEORGE DOUGLASS,
 #2684140

Plaintiff,

vs.

STATE OF NEVADA,

Defendant.

2:11-cv-00129-JCM-PAL

ORDER

On January 24, 2011, the court received a handwritten document from plaintiff entitled “Petition for Affirmative Relief” (docket #1). Such document is insufficient to initiate a civil rights action in this court. The Local Rules require plaintiffs appearing in *pro se*, such as this plaintiff, to file all of their complaints and petitions on the court’s approved forms. LSR 2-1 (“[a] civil rights complaint filed by a person who is not represented by counsel shall be on the form provided by this court.”). Moreover, plaintiff has failed to either pay the \$350 filing fee or submit an application to proceed *in forma pauperis* on the court-approved forms.

The court also notes that, in its preliminary review, with respect to at least some claims, plaintiff appears to attempt to challenge his underlying conviction. However, when a prisoner challenges the legality or duration of his custody, or raises a constitutional challenge which could entitle him to an

1 earlier release, his sole federal remedy is a writ of *habeas corpus*. *Preiser v. Rodriguez*, 411 U.S. 475
2 (1973); *Young v. Kenny*, 907 F.2d 874 (9th Cir. 1990), *cert. denied* 11 S.Ct. 1090 (1991). Further, when
3 seeking damages for an allegedly unconstitutional conviction or imprisonment, “a § 1983 plaintiff must
4 prove that the conviction or sentence has been reversed on direct appeal, expunged by executive order,
5 declared invalid by a state tribunal authorized to make such determination, or called into question by a
6 federal court’s issuance of a writ of *habeas corpus*, 28 U.S.C. § 2254.” *Heck v. Humphrey*, 512 U.S.
7 477, 487-88 (1994). “A claim for damages bearing that relationship to a conviction or sentence that has
8 not been so invalidated is not cognizable under § 1983.” *Id.* at 488.

9 Accordingly, plaintiff’s action is dismissed without prejudice. If plaintiff wishes to
10 pursue this matter, he should file a new action, with a new case number, and a complaint and/or petition
11 for writ of *habeas corpus* on the court-approved forms. If he files a civil rights complaint, plaintiff
12 should also include either the \$350 filing fee or a completed application to proceed *in forma pauperis*
13 on the court-approved form. The application must be accompanied by all required financial
14 documentation, as described in the instructions for use of the form.

15 **IT IS THEREFORE ORDERED** that this action is **DISMISSED without prejudice**.

16 **IT IS FURTHER ORDERED** that the Clerk **SHALL SEND** to plaintiff the approved
17 forms for filing a civil rights lawsuits under 42 U.S.C. §1983.

18 **IT IS FURTHER ORDERED** that the Clerk shall send to plaintiff a blank petition for
19 writ of *habeas corpus* form with instructions.

20 **IT IS FURTHER ORDERED** that the Clerk shall ENTER JUDGMENT accordingly
21 and close this case.

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23 DATED this 7th day of February, 2011.

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25 
26 UNITED STATES DISTRICT JUDGE